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U.S. DISTRICT COURT, E.D.N.Y.

★ 07 03 2006 ★

BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ANNA BERRIOS,

Plaintiff,

REPORT AND RECOMMENDATION
05 CV 5765 (ARR)(LB)

- against -

QUEENS HOSPITAL CENTER,

Defendant.

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BLOOM, United States Magistrate Judge:

Plaintiff, proceeding *pro se*, filed the instant action on December 7, 2005. A review of the Court's records reflects that there is no proof that defendant has been served with the summons and complaint on file. By Order dated April 17, 2006, I granted plaintiff's request for an extension of time until May 17, 2006 to serve defendant with the summons and complaint. My Order explicitly stated that this extension was final. Moreover, Rule 4(m) of the Federal Rules of Civil Procedure provides:

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period.

Plaintiff has failed to file proof of service or show good cause why service had not been made. Accordingly, it is respectfully recommended that the instant action should be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

FILING OF OBJECTIONS TO THIS REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties shall have ten (10) days from service of this Report to file written objections. See also Fed. R. Civ. P. 6. Such objections (and any responses to objections) shall be filed with the Clerk of the Court. Any request for an extension of time to file objections must be made within the ten-day period. Failure to file a timely objection to this Report generally waives any further judicial review. Marcella v. Capital Dist. Physician's Health Plan, Inc., 293 F.3d 42 (2d Cir. 2002); Small v. Sec'y of Health and Human Services, 892 F.2d 15 (2d Cir. 1989); see Thomas v. Arn, 474 U.S. 140 (1985).

SO ORDERED:


LOIS BLOOM

United States Magistrate Judge

Dated: November 3, 2006
Brooklyn, New York